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8 *Foods Co. and Only What You Need, Inc.*

9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12

13  
14 EMMETT ENRIQUES, individually and  
15 on behalf of all other situated,

16 Plaintiff,

17 v.

18 ONLY WHAT YOU NEED, INC., a  
Delaware Corporation; THE SIMPLE  
19 GOOD FOODS COMPANY, a Delaware  
Corporation; AND DOES 1 THROUGH  
20 70, INCLUSIVE,

21 Defendants.  
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Case No. 24STCV23588

**DEFENDANTS THE SIMPLY  
GOOD FOODS COMPANY AND  
ONLY WHAT YOU NEED, INC.S  
NOTICE OF REMOVAL**

(Removal from the Superior Court of  
the State of California for the County  
of Los Angeles)

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF CALIFORNIA:**

PLEASE TAKE NOTICE that Defendants The Simply Good Foods Company (“Simply Good Foods”), erroneously sued as The Simple Good Foods Company, and Only What You Need, Inc. (“OWYN”) hereby remove this action from the Superior Court in the State of California for the County of Los Angeles to the United States District Court for the Central District of California, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. This is a civil action where the plaintiff and defendants are citizens of different states and the amount in controversy would exceed \$75,000. In accordance with 28 U.S.C. §1446(a), set forth below is a statement of the grounds for removal.

**NOTICE OF REMOVAL:**

**I. BACKGROUND**

1. The Simply Good Foods Company is a Colorado-based business committed to creating nutritious and convenient snacks that fit into a healthy lifestyle. Simply Good Foods’ products are made using carefully selected ingredients, including protein blends, fibers, and natural flavors, while avoiding artificial additives and preservatives. Simply Good Foods complies with all state and federal food safety regulations. Plaintiff files his claim despite having never purchased an OWYN product.

2. OWYN is a New Jersey-based company founded by Kathryn Moos and Jeff Mroz, spouses and athletes who also both suffer from serious food allergies. They created OWYN to make delicious, plant-based protein products free from the most common food allergens. OWYN’s products are made from a proprietary pea protein blend combined with other natural flavors, vitamins, and minerals. The products do not contain dairy, gluten, soy, egg, peanuts, tree nuts, fish, or shellfish. OWYN’s products comply will all state and federal regulations. Plaintiff files his claim despite having never purchased an OWYN product.

1           3.     Plaintiff commenced this action in the Superior Court of the State of  
2 California for the County of Los Angeles, captioned *Enriques v. Only What You*  
3 *Need, Inc.*, Case No. 24STCV23588 (the “State Court Action”). A true and correct  
4 copy of the complaint in the State Court Action is attached hereto as **Exhibit A** (the  
5 Complaint). Mr. Enriques served the Complaint on The Simply Good Foods  
6 Company on September 17, 2024, and on OWYN on September 26, 2024.

7           4.     In addition to the Complaint described above, all other pleadings and  
8 accompanying materials filed in the State Court Action are attached hereto.

9           A. The Affidavit of Emmett Enriques is attached hereto as **Exhibit B**;

10          B. The Civil Case Cover Sheet is attached hereto as **Exhibit C**;

11          C. The Summons is attached hereto as **Exhibit D**;

12          D. The Notice of Case Assignment is attached hereto as **Exhibit E**;

13          E. The Minute Order is attached hereto as **Exhibit F**;

14          F. The Certificate of Mailing is attached hereto as **Exhibit G**;

15          G. The Initial Status Conference Order is attached hereto as **Exhibit H**;

16          H. The Proof of Service of Summons (Defendant The Simply Good Foods  
17 Co.) is attached hereto as **Exhibit I**;

18          I. The Proof of Service of Summons (Defendant OWYN) is attached  
19 hereto as **Exhibit J**;

20          J. The General Denial and Proof of Service filed by OWYN and The  
21 Simply Good Foods Co. are attached hereto as **Exhibit K**;

22          K. The Alternative Dispute Resolution packet is attached hereto as **Exhibit**  
23 **L**;

24          L. The Voluntary Efficient Litigation Stipulation packet is attached hereto  
25 as **Exhibit M**;

26          M. The First Amende General Order on E-Filing is attached hereto as  
27 **Exhibit N**.  
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## II. JURISDICTION AND VENUE

5. This Court has original jurisdiction under 28 U.S.C. § 1332(a)(1) because the parties are citizens of different states and the amount in controversy exceeds \$75,000.

6. Venue is proper in this Court because the Central District of California embraces the County of Los Angeles where the State Court Action was filed. *See* 28 U.S.C. § 84 (setting Los Angeles County in the Central District); *id.* § 1441(a) (“[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending.”).

### A. The Parties Are Citizens of Different States

7. An action is removable based on diversity jurisdiction if the controversy is between “citizens of different States.” 28 U.S.C. § 1332(a)(1).

8. The Simply Good Foods Co. is a corporation with its principal place of business in Colorado.

9. OWYN is a corporation with its principal place of business in New Jersey.

10. Plaintiff resides in the State of California.

### B. The Amount in Controversy Exceeds \$75,000

11. Where, as here, “the plaintiff’s complaint does not state the amount in controversy, the defendant’s notice of removal may do so.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 84 (2014). To establish the amount in controversy exceeds the jurisdictional threshold of \$75,000 pursuant to § 1332(a), a notice of removal “need not contain evidentiary submissions.” *Id.* Rather, “a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Id.* at 89.

1 **III. DEFENDANTS HAVE MET ALL PROCEDURAL REQUIREMENTS**

2 12. This Notice of Removal is signed pursuant to Rule 11 of the Federal  
3 Rules of Civil Procedure. *See* U.S.C. § 1446(a).

4 13. This Notice of Removal has been filed within 30 days of September 26,  
5 2024, the date Plaintiff served the Complaint on OWYN and from which it was first  
6 ascertainable this case was removable. *See* 28 U.S.C. § 1446(b)(2)(3).

7 14. Copies of “all process, pleadings, and orders served upon” OWYN are  
8 attached as **Exhibits A through N**. *See* 28 U.S.C. § 1446(a).

9 15. Promptly after filing this Notice of Removal in the United States  
10 District Court for the Central District of California, Simply Good Foods and OWYN  
11 will provide written notice thereof to Plaintiff and will file a copy of the Notice of  
12 Removal bearing this Court’s “FILED” stamp with the Clerk of the Superior Court of  
13 the State of California for the County of Los Angeles, to effectuate the removal of  
14 this action to the United States District Court for the Central District of California,  
15 pursuant to 28 U.S.C. § 1446(d).

16 **IV. RESERVATION OF ALL AVAILABLE RIGHTS AND DEFENSES**

17 16. Simply Good Foods and OWYN expressly reserve all of their defenses  
18 and rights, and none of the foregoing shall be construed as in any way conceding the  
19 truth of any of Plaintiff’s allegations or waiving any of Simply Good Foods and  
20 OWYN’s defenses. Simply Good Foods and OWYN also reserve their right to  
21 amend or supplement this Notice of Removal.

22 **CONCLUSION**

23 WHEREFORE, Defendants The Simply Good Foods Company and OWYN  
24 hereby remove this case from the California Superior Court for the County of Los  
25 Angeles to this Court.  
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1 Dated: October 17, 2024

Respectfully Submitted,

2 BRAUNHAGEY & BORDEN LLP

3 By: /s/ David H. Kwasniewski

4 David H. Kwasniewski

5 *Attorneys for Defendants The Simply*  
6 *Good Foods Co. and Only What You*  
7 *Need, Inc.*